

GOODWIN | PROCTER

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June 4, 2004

***By Hand and Facsimile***

Susan M. Poswistilo, Assistant U.S. Attorney  
United States Attorney's Office  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210

***Re: United States v. Manuel Mendes, et al., Criminal No. 04-CR-10098 WGY***

***Follow-up Discovery Request***

Dear AUSA Poswistilo:

Thank you for the automatic discovery materials you provided on May 3 and May 19, 2004. I have now had an opportunity to review most of those materials and I have several follow-up questions, all of which are detailed below. Please provide answers at your earliest convenience.

**Rule 16 Materials**

1. Section A.1.b of your May 3, 2004 letter indicates that "no consensual tape recordings were made between William Tejeda and government agents." However, page 3 of the same letter states that you "do not expect to receive a copy of every conversation in which [my] client was recorded by PHOC." Does the government contend that Mr. Tejeda was overheard on any phone calls recorded by PHOC? If so, please indicate the dates and times of those phone calls.
2. Although we have attempted to listen to the cd-roms containing the PHOC recordings using three different methods, we have been unable to hear the contents of those cd-roms. Our litigation technology specialist, James Berriman, has suggested that the cd-roms may need to be burned at a slower speed. Please provide an alternative set of the PHOC cd-roms so that we may access their contents. Mr. Berriman has offered to coordinate this process with the appropriate person from your office. Please let me know whether that would be helpful.

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3. Please consider this a request to review the "books, papers, documents and tangible items" referenced in Section A.3 of your May 3, 2004 letter. Please call me or my associate, Jennifer Fischesser, to set up a mutually convenient time for us to review the referenced items.
4. Please provide the date and time when each of the 98 photographs referenced in Section A.3 of your May 3, 2004 letter was taken, along with a description of what each photograph purports to represent. Please provide the same information for each of the photographs produced on May 19, 2004. By way of example only, the first photograph produced on May 3 includes an image description of "door" and an image date of 2/18/2004. There is no indication of which "door" the photograph represents. The second photograph is of a gray house but there is no image description or image date provided.

### Search Materials

5. Please explain why the search warrant for the green Motorola pager seized from William Tejeda on March 16, 2004 was obtained but never executed as stated in Section B of your May 3, 2004 letter. Please provide any and all documents relating to the green Motorola pager that have not already been provided.

### Electronic Surveillance Materials

6. Section C of your May 3, 2004 letter provides that "two cd-roms which contain the recorded conversations, line sheets and transcripts of all interceptions" were enclosed with the automatic discovery materials. I received seven cd-roms containing intercepted communications. Those cd-roms contain transcripts of many but not all of the interceptions. Please confirm whether there are two additional cd-roms containing additional transcripts and, if so, please provide them.

### Exculpatory Evidence

7. Please identify the two law enforcement agents and the DEA technician who reviewed some of the 45 text messages intercepted from (508) 400-2957 and/or (508) 292-7708 as described in Section G of your May 3, 2004 letter. Please provide the details of the messages which were improperly reviewed.

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### Other Matters

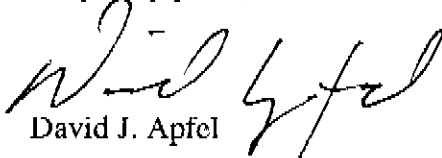
8. Please consider this a request to review the pen register/toll analysis referenced in Section H of your May 3, 2004 letter as well as all underlying documents and materials relating to the pen register/trap and trace devices employed in this investigation. Please call me or my associate, Jennifer Fischesser, to set up a mutually convenient time for us to review the referenced items.

### Additional Requests

9. Please provide the customs records referenced by Detective-Sergeant Sean Balcom in his April 19, 2004 testimony which purportedly show William Tejeda traveling to the Dominican Republic.
10. Please provide a copy of the results of the drug test administered to William Tejeda after his arrest.

If you anticipate any problem responding to these inquiries, please let me know at your earliest convenience. In the meanwhile, if you have any questions or concerns regarding any of my requests, please call me (617-570-1970) or Jenn Fischesser (617-570-8273).

Very truly yours,



David J. Apfel

DJA:jwf

cc: William Tejeda  
Thomas Quinn, Clerk to the Honorable Judith G. Dein  
Elizabeth Smith, Clerk to the Honorable William G. Young  
Mark D. Smith, Esq.  
Thomas J. Ford, Esq.  
Michael C. Andrews, Esq.  
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